

LAW OFFICES OF KENNETH L. BAUM LLC

167 Main Street
Hackensack, New Jersey 07601
(201) 853-3030
(201) 584-0297 Facsimile
Kenneth L. Baum, Esq.
Attorneys for Educational Credit Management Corporation

In re:

JAMES AND DENISE BOLEN,

Debtors.

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEW JERSEY
HON. MICHAEL B. KAPLAN
CASE NO. 19-31402 (MBK)

CHAPTER 13

**SUPPLEMENTAL OBJECTION OF
EDUCATIONAL CREDIT
MANAGEMENT CORPORATION TO
DEBTORS' MOTIONS TO EXPUNGE
CLAIMS NOS. 5 AND 6**

HEARING DATE: JUNE 9, 2021

Educational Credit Management Corporation (“ECMC”), by and through its attorneys, Law Offices of Kenneth L. Baum LLC, by way of supplemental objection to the motions (the “Motions”) of James and Denise Bolen (together, the “Debtors”) to expunge Claim No. 5 [Dkt. No. 66] and Claim No. 6 [Dkt. No. 67], states as follows:

BACKGROUND

1. ECMC was created under the direction of the United States Department of Education to provide specialized guarantor services pursuant to the Federal Family Education Loan Program (“FFELP”), including accepting transfer of title of certain student loan accounts on which the student loan borrower has filed a bankruptcy proceeding. ECMC is a not-for-profit corporation duly organized under the laws of the State of Minnesota.

A. The 2006 Loan and 2007 Loan.

2. On or about June 11, 2006, Denise Bolen signed a Federal PLUS Loan Application and Master Promissory Note (the “2006 Note,” a true copy of which is attached hereto as **Exhibit A**). The loan made pursuant to the 2006 Note (the “2006 Loan”) was disbursed on or about August 25, 2006, in the original principal amount of \$20,722.00. The 2006 Loan was originally guaranteed by Pennsylvania Higher Education Assistance Agency (“PHEAA”).

3. Additionally, on or about July 10, 2007, Denise Bolen signed a Federal PLUS Loan Application and Master Promissory Note (the “2007 Note,” a true copy of which is attached hereto as **Exhibit B**). The loan made pursuant to the 2007 Note (the “2007 Loan”) was disbursed on or about August 17, 2007, in the original principal amount of \$9,960.00. The 2007 Loan was originally guaranteed by PHEAA.

4. Claim No. 5 in the Debtors’ Chapter 13 case was filed by EFS/PHEAA on November 26, 2019, in the amount of \$17,421.64. A copy of the 2007 Note, as well as an itemized statement of interest, are attached to Claim No. 5.

5. Claim No. 6 in the Debtors’ Chapter 13 case was filed by Navient Trust 2016-3 on November 26, 2019, in the amount of \$34,536.30. A copy of the 2006 Note, as well as an itemized statement of interest, are attached to Claim No. 6.

B. The Assignment of the 2006 Loan and 2007 Loan.

6. By agreement, PHEAA assigns to ECMC its student loan accounts for borrowers that have filed a bankruptcy proceeding. Thus, on or about January 18, 2020, PHEAA transferred all right, title, and interest in the 2006 Note and 2007 Note to ECMC and ECMC became the FFELP guarantor. A true copy of the assignment letter from PHEAA to ECMC and the ECMC transfer manifest, redacted to reflect Denise Bolen's loans only, is attached hereto as **Exhibit C.**

7. In order to reflect the assignment of Claim No. 5 to ECMC, a Transfer of Claim Other Than for Security was filed on March 25, 2020 [Dkt. No. 28], and a corresponding Notice of Transfer of Claim Other Than for Security was filed on March 26, 2020 [Dkt. No. 31].

8. Similarly, in order to reflect the assignment of Claim No. 6 to ECMC, a Transfer of Claim Other Than for Security was filed on March 25, 2020 [Dkt. No. 27], and a corresponding Notice of Transfer of Claim Other Than for Security was filed on March 26, 2020 [Dkt. No. 30].

THE COURT SHOULD DENY THE MOTIONS

9. Through the Motions, the Debtors seek to expunge Claims Nos. 5 and 6 in their entirety, on the basis of purported "inconsistencies and omissions" regarding ownership of the underlying loans. As the above loan history shows, however, ECMC is the proper holder of the 2006 Loan and 2007 Loan. Moreover, given that the Debtors listed, in Schedule F to their bankruptcy petition, debts for student loans incurred in August 2006 and August 2007 – i.e., the same time periods when the 2006 Loan and 2007 Loan were disbursed – in the respective amounts of \$34,050.00 and \$17,166.00 (see Dkt. No 1 at Schedule F), it is extremely disingenuous for the Debtors to argue that Claims No. 5 and 6 should be expunged in their

entirety. Accordingly, the Court should deny the Motions.

WHEREFORE, ECMC respectfully requests that the Court enter an order denying the Motions and for such other and further relief as the Court deems just and proper.

Respectfully submitted,

LAW OFFICES OF KENNETH L. BAUM
LLC
Attorneys for Educational
Credit Management Corporation

By: /s/ Kenneth L. Baum
Kenneth L. Baum

DATED: June 2, 2021

EXHIBIT A

20

Federal Family Education Loan Program (FFELP) Federal PLUS Loan Application and Master Promissory Note

Guarantor, Program, or Lender Identification
**AES
PLUS-WEB-APP
Pre-Approved 06/11/2006
000742PLUSW002SAA**

OMB No. 1845-0099
Form approved
Exp. date 01/31/2005

WARNING: Any person who knowingly makes a false statement or misrepresentation on this form is subject to penalties which may include fines, imprisonment, or both, under the United States Criminal Code and 20 U.S.C. 1087.

Borrower (Parent) Section

Please print neatly in ink or type. Read the instructions carefully.

1. Last Name Bolen	First Name Denise	2. Social Security Number MM
3. Permanent Street Address (If P.O. Box, see instructions.) 11 Glen Avenue		4. Home Area Code/Telephone Number
City Hazlet	State NJ	Zip Code 07730
5. E-mail Address jpb409@aol.com		6. Driver's License State and Number State #
7. U.S. Citizenship Status (Check a or b, and if b is checked, list Registration No.) <input checked="" type="checkbox"/> a. Citizen/National <input type="checkbox"/> b. Permanent Resident/Other Eligible Non-Citizen If "b", Alien Registration No.		
8. Lender Name WACHOVIA EDUCATION FINANCE	City RANCHO CORDOVA	State CA
Zip Code 95670		10. Lender Code, if known 813830
11. Employer (Name, Address, City, State, Zip) Horizon Blue Cross Blue Shield, 1427 Wyckoff Road, Wall, NJ 07727		12. Employer Telephone Number
13. Borrower References: You must provide two separate references with different U.S. addresses who have known you for at least three years. Both references must be completed in full. Do not list the student as a reference.		
Name A. Jeanne Fodera B. Patricia Laudati		
Permanent Address A. 1 Norma Place B. 94 Bart Place		
City, State, Zip Code A. Hazlet, NJ 07730 B. Hazlet, NJ 07730		
E-mail Address		
Area Code/Telephone Number A. (732) 888-1336 B. (732) 739-3083		
Relationship to Borrower A. Friend B. Friend		

Student Information Section

14. Last Name Bolen III	First Name James	15. Social Security Number MM P
16. Date of Birth (Month/Day/Year)		

Borrower Request, Certifications, and Authorizations

Read carefully before signing below.

17. Requested Loan Amount: This is an Application and Master Promissory Note (hereafter "MPN") for one or more Federal PLUS Loans. I request a Federal PLUS Loan under this MPN in an amount not to exceed the annual cost of attendance for the student identified in the Student Information Section of this MPN, minus other financial aid that the student receives each academic year. For each loan, the school will notify me of the loan amount that I am eligible to receive. I may cancel my loan or request a lower amount by contacting my lender or the school. Additional information about my right to cancel a loan or request a lower amount is included in the Borrower's Rights and Responsibilities Statement and disclosure statements that have been or will be provided to me. If I have an adverse credit history and obtain an endorser to receive a PLUS Loan, only one loan may be made to me under this MPN.

18. Under penalty of perjury, I certify for any loan I receive under this MPN that:

A. The information I have provided on this MPN and as updated by me from time to time is true, complete, and correct to the best of my knowledge and belief and is made in good faith.

B. I am: (i) the biological or adoptive parent; or (ii) the spouse of a parent; and my income and assets were reported on the Free Application for Federal Student Aid (FAFSA) or would be reported if a FAFSA were filed.

C. Loan proceeds will be used for authorized educational costs incurred by the dependent student, named in the Student Information Section and that I will immediately repay any loan proceeds that cannot be attributed to educational costs for attendance on at least a half-time basis at the school that certified my loan eligibility.

D. (i) I do not now owe an overpayment on a Federal Pell Grant, Federal Supplemental Educational Opportunity Grant, or Leveraging Educational Assistance Partnership Grant (formerly State Student Incentive Grant), or, if I owe an overpayment, I have made repayment arrangements with the holder to repay the amount owed; (ii) I am not now in default on any loan received under the Federal Perkins Loan Program (including RDSL loans), the Federal Direct Loan Program, or the Federal Family Education Loan Program ("FFELP" as defined in the Borrower's Rights and Responsibilities Statement); or I am in default on a loan and I have made satisfactory payment arrangements with the holder of the defaulted loan.

19. For all Federal PLUS Loans (as described in the additional MPN provisions and the Borrower's Rights and Responsibilities Statement) I receive under this MPN, and for certain other loans as described below, I make the following authorizations:

A. I authorize the school to certify my eligibility for Federal PLUS Loans under this MPN.

B. I authorize the lender, the guarantor, or their agents, to investigate my credit record and report information concerning my loan status to persons and organizations permitted by law to receive such information.

C. I authorize the school to pay to the lender any refund that may be due up to the full amount of the loan(s).

D. I authorize the school to transfer loan proceeds received by electronic funds transfer (EFT) or master check to my dependent student's account at the school.

E. I may tell my lender that I want to pay the interest that accrues. However, in all cases, unless I pay the interest, my lender will add the unpaid interest that accrues during forbearance and deferment and other periods on each PLUS Loan made under this MPN to the principal balance of that loan ("capitalization") as provided under the Act. Capitalization will increase the principal balance on my loan(s) and the total amount of interest costs I must pay.

F. I authorize the release of information pertinent to my loan(s): (i) by the school, the lender, and the guarantor, or their agents, to the references on the applicable loan(s) and to members of my immediate family unless I submit written directions otherwise; and (ii) by and among the schools, lenders, guarantors, the U.S. Department of Education (the Department), and their agents.

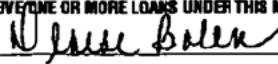
G. So that the loan(s) requested can be approved, I authorize the Department to send any information about me that is under its control, including information from the FAFSA, to the school, to the lender, and to state agencies and nonprofit organizations that administer financial aid programs under the FFELP. I understand that information reported on this MPN may be shared with the Department, and that the Department has the authority to verify that information with other federal agencies.

H. I authorize my lender to defer repayment of principal on my loan(s) based on my in-school status.

Promise to Pay in this MPN. "Lender" refers to, and this MPN benefits, the original lender and its successors and assigns, including any subsequent holder of this MPN.

20. I promise to pay to the order of the lender all loan amounts disbursed (hereafter "loan" or "loans") under the terms of this Application and Master Promissory Note (hereafter "MPN"), plus interest and other charges and fees that may become due as provided in this MPN. I understand that multiple loans may be made to me under this MPN for the dependent identified in the Student Information Section. I understand that by accepting any disbursements issued at any time under this MPN, I agree to repay the loan(s). I understand that, within certain time frames, I may cancel or reduce the amount of my loan by refusing to accept or by returning all or a portion of any disbursement that is issued. Unless I make interest payments, interest that accrues on my loan(s) during deferment or forbearance periods or other periods will be added as provided under the Act to the principal balance of such loan(s). If I fail to make any payment on any loan made under this MPN when due, I will also pay reasonable collection costs, including but not limited to attorney's fees, court costs, and other fees. I will not sign this MPN before reading the entire MPN, even if I am told not to read it, or told that I am not required to read it. I am entitled to an exact copy of this MPN and the Borrower's Rights and Responsibilities Statement. My signature certifies I have read, understand, and agree to the terms and conditions of this MPN, including the Borrower Request, Certifications, and Authorizations printed above, the Notice About Subsequent Loans Made Under This MPN, and the Borrower's Rights and Responsibilities Statement.

I UNDERSTAND THAT I MAY RECEIVE ONE OR MORE LOANS UNDER THIS MPN AND THAT I MUST REPAY ALL LOANS THAT I RECEIVE UNDER THIS MPN.

21. Parent Borrower's Signature 	22. Today's Date (Month/Day/Year) 6/11/06
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Additional MPN provisions follow

School Name: **KINGS COLLEGE** School Code: **00326200** Loan Amount Requested: **\$27,000.00**

EXHIBIT B

Federal Family Education Loan Program (FFELP) Federal PLUS Loan Application and Master Promissory Note <small>WARNING: Any person who knowingly makes a false statement or misrepresentation on this form is subject to penalties which may include fines, imprisonment, or both, under the United States Criminal Code and 20 U.S.C. 1097.</small>		Guarantor, Program, or Lender Identification <div style="display: flex; align-items: center;"><div>06/26/2007 00328200 805317KR PARAGRAPH PB www.aesSuccess.org</div><div style="margin-left: 20px;">000742PLUSW0054IF KINGS COLLEGE BANK OF AMERICA</div></div> <div style="text-align: right; font-size: small;">OMB No. 1845-0069 Form approved Exp. date 03/31/2008</div> <div style="text-align: right; font-weight: bold;">800-692-7392</div>													
Please print neatly in ink or type. Read the instructions carefully.															
Borrower (Parent) Section		2. Social Security Number													
1. & 3. Borrower Name and Permanent Address DENISE BOLEN 11 GLEN AVE HAZLET NJ 07730-1811		4. Home Area Code/Telephone Number													
6. E-mail Address		7. Driver's License State and Number State NJ # 													
8. U.S. Citizenship Status (Check a or b, and if b is checked, list Registration No.) <input checked="" type="checkbox"/> a. Citizen/National <input type="checkbox"/> b. Permanent Resident/Other Eligible Non-Citizen If "b", Alien Registration No. 															
9. Lender Name BANK OF AMERICA		City	State												
11. Employer (Name, Address, City, State, Zip)		Zip Code	10. Lender Code, if known 805317KR												
			12. Employer Telephone Number ()												
13. Borrower References: You must provide two separate references with different U.S. addresses who have known you for at least three years. Both references must be completed in full. Do not list the student as a reference.															
<table style="width: 100%;"><tr><td style="width: 50%;">Name A. _____ B. _____</td><td style="width: 50%;"></td></tr><tr><td>Permanent Address _____</td><td>_____</td></tr><tr><td>City, State, Zip Code _____</td><td>_____</td></tr><tr><td>E-mail Address _____</td><td>_____</td></tr><tr><td>Area Code/Telephone Number () _____</td><td>() _____</td></tr><tr><td>Relationship to Borrower _____</td><td>_____</td></tr></table>				Name A. _____ B. _____		Permanent Address _____	_____	City, State, Zip Code _____	_____	E-mail Address _____	_____	Area Code/Telephone Number () _____	() _____	Relationship to Borrower _____	_____
Name A. _____ B. _____															
Permanent Address _____	_____														
City, State, Zip Code _____	_____														
E-mail Address _____	_____														
Area Code/Telephone Number () _____	() _____														
Relationship to Borrower _____	_____														
Student Information Section															
14. Last Name BOLEN		First Name JAMES	Mi P												
15. Social Security Number		16. Date of Birth (Month/Day/Birth Year)													
Borrower Request, Certifications, and Authorizations Read carefully before signing below.															
<div style="display: flex;"><div style="width: 50%;"><p>17. Requested Loan Amount: This is an Application and Master Promissory Note (hereafter, "MPN") for one or more Federal PLUS Loans. I request a Federal PLUS Loan under this MPN in an amount not to exceed the annual cost of attendance for the student identified in the Student Information Section of this MPN, minus other financial aid that the student receives each academic year. For each loan, the school will notify me of the loan amount that I am eligible to receive. I may cancel my loan or request a lower amount by contacting my lender or the school. Additional information about my right to cancel a loan or request a lower amount is included in the Borrower's Rights and Responsibilities Statement and disclosure statements that have been or will be provided to me. If I have an adverse credit history and obtain an endorser to receive a PLUS Loan, only one loan may be made to me under this MPN.</p><p>18. Under penalty of perjury, I certify for any loan I receive under this MPN that:</p><p>A. The information I have provided on this MPN and as updated by me from time to time is true, complete, and correct to the best of my knowledge and belief and is made in good faith.</p><p>B. I am: (i) the biological or adoptive parent; or (ii) the spouse of a parent and my income and assets were reported on the Free Application for Federal Student Aid (FAFSA) or would be reported if a FAFSA were filed.</p><p>C. Loan proceeds will be used for authorized educational costs incurred by the dependent student named in the Student Information Section and that I will immediately repay any loan proceeds that cannot be attributed to educational costs for attendance on at least a half-time basis at the school that certified my loan eligibility.</p><p>D. (i) I do not now owe an overpayment on a Federal Pell Grant, Federal Supplemental Educational Opportunity Grant, or Leveraging Educational Assistance Partnership Grant (formerly State Student Incentive Grant); or, if I owe an overpayment, I have made repayment arrangements with the holder to repay the amount owed; (ii) I am not now in default on any loan received under the Federal Perkins Loan Program (including NDSL loans), the Federal Direct Loan Program, or the Federal Family Education Loan Program ("FFELP" as defined in the Borrower's Rights and Responsibilities Statement); or I am in default on a loan and I have made satisfactory payment arrangements with the holder of the defaulted loan.</p></div><div style="width: 50%;"><p>19. For all Federal PLUS Loans (as described in the additional MPN provisions and the Borrower's Rights and Responsibilities Statement) I receive under this MPN, and for certain other loans as described below, I make the following authorizations:</p><p>A. I authorize the school to certify my eligibility for Federal PLUS Loans under this MPN.</p><p>B. I authorize the lender, the guarantor, or their agents, to investigate my credit record and report information concerning my loan status to persons and organizations permitted by law to receive such information.</p><p>C. I authorize the school to pay to the lender any refund that may be due up to the full amount of the loan(s).</p><p>D. I authorize the school to transfer loan proceeds received by electronic funds transfer (EFT) or master check to my dependent student's account at the school.</p><p>E. I may tell my lender that I want to pay the interest that accrues. However, in all cases, unless I pay the interest, my lender will add the unpaid interest that accrues during forbearance and deferment and other periods on each PLUS Loan made under this MPN to the principal balance of that loan ("capitalization") as provided under the Act. Capitalization will increase the principal balance on my loan(s) and the total amount of interest costs I must pay.</p><p>F. I authorize the release of information pertinent to my loan(s): (i) by the school, the lender, and the guarantor, or their agents, to the references on the applicable loan(s) and to members of my immediate family unless I submit written directions otherwise; and (ii) by and among the schools, lenders, guarantors, the U.S. Department of Education (the Department), and their agents.</p><p>G. So that the loan(s) requested can be approved, I authorize the Department to send any information about me that is under its control, including information from the FAFSA, to the school, to the lender, and to state agencies and nonprofit organizations that administer financial aid programs under the FFELP. I understand that information reported on this MPN may be shared with the Department, and that the Department has the authority to verify that information with other federal agencies.</p><p>H. I authorize my lender to defer repayment of principal on my loan(s) based on my in-school status.</p></div></div>															
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21. Parent Borrower's Signature <u>Denise Bolen</u>		22. Today's Date (Month/Day/Year) <u>7/10/07</u>													

School Name

School Code

Loan Amount Requested

00000182

LENDER COPY

EXHIBIT C



Default Collections Department
1200 North Seventh Street, Harrisburg PA 17105-1444

January 18, 2020

Educational Credit Management Corporation
111 South Washington Avenue
Suite 1400
Minneapolis MN 55401

Dear Sir/Madam:

The Pennsylvania Higher Education Assistance Agency (PHEAA) hereby assigns to the Educational Credit Management Corporation (ECMC) its rights, title and interest in those student loans listed in the enclosure to this letter.

PHEAA hereby specifically waives notification and any hearing with respect to the assignment of claim by ECMC pursuant to Bankruptcy Rule 3001.

Sincerely,

Todd E. Mosko
Vice President
Loan Assets Management

JOB: GPAD940A
PAGE: 1

ECMC TRANSFERRED ACCOUNT LISTING

PROGRAM # LCXE3
RUN DATE: 01/18/2020

NAME SSN SEQ NUMBER DISB AMT

BOLEN DENISE	-3704	1	\$20,722.00
		2	\$9,960.00
BOLEN DENISE	-3704		

